

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARGARET ANN BACH,

Appellant,

v.

Case No. 21-cv-1275-bhl

J.P. MORGAN CHASE BANK,
FEDERAL NATIONAL MORTGAGE ASSOCIATION,

Appellees.

ORDER

On November 3, 2021, Margaret Ann Bach, proceeding without counsel, filed a Notice of Appeal of the Decision and Order of the Honorable Katherine M. Perhach, United States Bankruptcy Judge for the Eastern District of Wisconsin, entered on October 1, 2021, and Judgment on Decision of the Court entered on October 1, 2021 in *Margaret Ann Bach v. Wisconsin Office of Lawyer Regulation, et al.*, Adversary Proceeding No. 21-2020-kmp.

Under Bankruptcy Rule 8002(a)(1), the 14-day deadline to file a notice of appeal of the October 1st bankruptcy court order and judgment was October 15, 2021. Having missed that deadline, on October 20, 2021, Bach filed in the bankruptcy court a motion under Fed. R. Bankr. P. 8002(d)(1)(B) to extend the time to file a notice of appeal. Before the bankruptcy court decided her request for an extension of time, Bach filed a notice of appeal, resulting in the transmittal of her appeal to the district court and the opening of this appellate case on November 4, 2021.

On November 23, 2021, the bankruptcy court held an evidentiary hearing and determined that because Bach's failure to timely file an appeal was due to excusable neglect, she satisfied the requirements of Bankruptcy Rule 8002(d)(1)(B). The bankruptcy court did *not* grant Bach's extension motion nunc pro tunc to the date of her November 3 notice of appeal and instead, by order entered November 24, 2021, set a deadline of December 8, 2021 for Bach to file a second notice of appeal. Bach filed that second notice of appeal on December 7, 2021, resulting in the

transmittal of another appeal to the district court and the opening of appellate case no. 21-cv-1394.

On December 21, 2021, Bach filed a motion to dismiss this, her first, appeal, stating that she improperly filed the notice of appeal while her motion for an extension of time to file an appeal was still pending before the bankruptcy court. (ECF No. 6.) Federal Rule of Bankruptcy Procedure 8023 provides that “[a]n appeal may be dismissed on the appellant’s motion on terms agreed to by the parties or fixed by the district court[.]” The appellees have not filed a response to the motion.

Because Bach’s November 3, 2021 Notice of Appeal was untimely under Fed. R. Bankr. P. 8002(a), this Court lacks jurisdiction over this appeal, and the appeal must be dismissed. Accordingly,

IT IS ORDERED that the Appellant’s Motion to Dismiss (ECF No. 6) is GRANTED pursuant to Fed. R. Bankr. P. 8023 and the above-captioned appeal is DISMISSED for lack of jurisdiction. All parties shall bear their own costs and fees associated with this appeal.

Dated at Milwaukee, Wisconsin on January 12, 2022.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge